

State of New Jersey  
Department of Labor and Workforce Development  
Board of Review

## MEMORANDUM

**To:** Cornelia Calderone, Chair, Joseph Sieber,  
Vice Chairman, and Frank Serico, Member

**From:** Gerald Yarbrough, Executive Secretary  
Board of Review

**Subject:** Minutes of the March 22, 2006  
Board of Review Meeting

**Date:** March 27, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO  
CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, March 22, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in The Trenton Times and The Star Ledger. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, March 29, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7<sup>th</sup> Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair  
Mr. Sieber, Vice Chair  
Mr. Serico, Member  
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the March 15, 2006 meeting were approved.

3. Old Business  
(a) 95, 692

Mr. Sieber described this case that involved a claimant who was employed as a police officer and was on a medical leave of absence. His attorney came to an agreement with the employer that the claimant would resign. The claimant contends he was not in agreement with his attorney. The Appeal Tribunal had held the claimant's appeal timely, the claimant not disqualified under N.J.S.A 43:21-5(a), and not ineligible under N.J.S.A. 43:21-4(c). The Board noted the record was lacking regarding specific details about the claimant's separation as well as the timeliness of the appeal. As a result, the

Board voted to remand the case for additional testimony. Mr. Sieber will prepare the remand.

**(b) 95,707**

This matter was previously discussed and involved a claimant who was employed as a warehouse supervisor and left work to accept work with a competitor of his employer. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). Mr. Sieber held a hearing to obtain additional testimony. After discussion, the Board noted that the **Gerber** court case is applicable as the new employer would not allow the claimant to start work at the designated time because his former employer objected and threatened to shut down the employer. As a result, the Board voted to reverse the Appeal Tribunal. Mr. Sieber will prepare the decision.

**4. New Business**

**(a) 96,090**

As described by Ms. Abrunzo, this case involved a claimant whose combined wage claim for benefits was held valid. The Appeal Tribunal had held the claimant's appeal timely and remanded the computation of the claimant's entitlement to the Deputy. The Board noted that the Appeal Tribunal used pay stubs to determine the out-of-state wages. Also, the amount of wages transferred from Pennsylvania to New Jersey is unknown. As a result, the Board voted to remand the case to the Appeal Tribunal for additional testimony from the Deputy regarding what wages were transferred from Pennsylvania as well as for the Appeal Tribunal to make findings on the claimant's wages. Ms. Abrunzo will prepare the remand.

**(b) 95,222**

As presented by Ms. Gagliardo, this case involved a claimant who was employed as a car sales associate. The matter was tabled for further review by Mr. Sieber.

**(c) 87,596**

Ms. Gagliardo presented this case that involved a claimant who worked as a physician and stopped working when he sold the assets of his corporations, but not the stock, to another physician. The claimant owned 50% of the stock in one corporation and 100% in the other. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a), with no evidence of a toll out, and the claim filed as of July 17, 2005 invalid under N.J.S.A. 43:21-19(m)(1). After discussion, the Board voted to affirm the Appeal Tribunal, with a change in the date of the disqualification.

**(d) 99, 159**

Mr. Maddow described this case that involved a claimant who normally worked between the hours of 8:00 a.m. to 4:00 p.m. or 9:00 a.m. to 4:00 p.m., Monday through Friday. The claimant's hours were changed to 12:00 a.m. to 8:00 a.m. The claimant left work because the hours interfered with her picking up her son from school. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the record was lacking regarding what hours the claimant was hired to work, how long she worked the hours, as well as the age of her child. As a result, the Board voted to remand the case for additional testimony. Mr. Maddow will prepare the remand.

**(e) 99, 383**

As described by Ms. Barnwell, this case involved a claimant who was employed by a temporary help agency. The claimant's assignment ended and the claimant was told that no other work was available at that site by the labor operation's manager at the worksite. The employer contends the claimant was told to report to the employer's offices at other locations for work. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the claimant denied that he was told to report to other offices. Also, it is unknown with whom the labor operation's manager is employed and if the claimant reported to the temporary help agency. As a result, the Board voted to remand the claimant for additional testimony. Ms. Barnwell will prepare the remand.

**(f) 68, 825**

As presented by Ms. Keller, this case involved a claimant who was employed as an acting assistant health officer and was discharged for pre-signing inspection documents. The claimant contends pre-signing the documents was within the employer's policy. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(b). The Board noted that the employer was not confronted with the claimant's contention. As a result, the Board voted to remand the case for additional testimony regarding the employer's policy. Ms. Keller will prepare the remand.

There being no further business to transact, a motion was made by Mr. Serico to adjourn the meeting. Mr. Sieber seconded the motion.

SUBMITTED FOR APPROVAL:

---

Gerald Yarbrough  
Executive Secretary

GY:gs

